

MOUNTAINTRUE, SIERRA CLUB,
CENTER FOR BIOLOGICAL
DIVERSITY, and DEFENDERS OF
WILDLIFE, *et al.*

Plaintiffs,

v.

UNITED STATES FOREST SERVICE,
and JAMES MELONAS, in his official
capacity as Forest Supervisor for the
National Forests of North Carolina,

Defendants.

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Defendants United States Forest Service and James Melonas, in his official capacity as Forest Supervisor for the Nantahala and Pisgah National Forests, move to dismiss Plaintiffs' First Amended Complaint (ECF No. 12) under Federal Rule of Civil Procedure 12(b)(1). Plaintiffs' Amended Complaint is a facial challenge to the 2023 Land Management Plan for the Nantahala and Pisgah National Forests. The Court lacks subject matter jurisdiction over this action for two independent reasons. First, Plaintiffs' challenge is not ripe for review. Second, Plaintiffs fail to demonstrate an injury-in-fact required to establish Article III jurisdiction. Plaintiffs' challenge is justiciable only in the context of a specific application of the Forest Plan, which Plaintiffs do not allege in their Amended Complaint.

This motion is supported by the accompanying brief in support and exhibit, Defendants' forthcoming reply brief, and upon such oral and/or documentary evidence as may be presented at, before, and after any hearing of this motion.

Respectfully submitted on this 3rd day of June, 2025.

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CERTIFICATION

Pursuant to the Standing Order of this Court entered June 18, 2024, and published to the Bar of the Western District on June 27, 2024, the undersigned hereby certifies:

1. No artificial intelligence was employed in doing the research for the preparation of this document, with the exception of such artificial intelligence embedded in the standard on-line legal research sources Westlaw, Lexis, FastCase, and Bloomberg;
2. Every statement and every citation to an authority contained in this document has been checked by an attorney in this case and/or a paralegal working at his/her direction (or the party making the filing if acting pro se) as to the accuracy of the proposition for which it is offered, and the citation to authority provided.

Dated this 3rd day of June, 2025.

/s/ John P. Tustin
JOHN P. TUSTIN